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S/N 09/202,634

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Schubert et al.	Examiner:	J. Einsmann
Serial No.:	09/202,634	Group Art Unit:	1655
Filed:	March 3, 1999	Docket No.:	9725.13USWO
Title:	OZONE-INDUCED GENE EXPRESSION IN PLANTS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 703.872.9306 on December 17, 2001

By: _____
Name: _____

Response to Restriction Requirement

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Office Action in the form of a Restriction Requirement mailed August 15, 2001, please consider the following remarks.

Applicants traverse the restriction requirement with respect to the claims of groups I and II as designated by the Examiner. Applicants assert that these two groups of claims represent a single general inventive concept.

The Examiner asserts that the nucleic acids of groups I and II have distinct sequences. Applicants respectfully disagree with the Examiner regarding this assertion.

Groups I and II are connected by the finding that the DNA sequence according to claim 1 is able to mediate ozone-inducible gene expression. That means that both Groups I and II are directed to the same DNA sequence. While the claims of group I are directed to the use of the DNA sequence of the invention to produce ozone-inducible genes, i.e., to mediate ozone-inducible gene expression, the claims of Group II relate to the possibility of eliminating ozone-inducibility by deleting the ozone responsive DNA sequence of the present invention. Therefore, in both aspects of the invention, the same DNA sequence is used for modifying ozone-inducible gene expression, induction or enhancement of ozone-inducible gene expression on the one hand and reduction or elimination of ozone-inducible gene expression on the other hand.

Because, contrary to the Examiner's assertion, the nucleic acid sequences of group I and II have the same sequence, they invariably have the same function and are therefore, in our opinion, related to the same inventive concept.


If the requirement to restrict the invention to one of the three groups is not withdrawn, Applicants elect examination of the Group I claims at this time. Applicants reserve the right to pursue the nonelected claims by appropriate means in the future, for example, by a divisional or continuation application, should they so desire.

The Examiner is invited to contact the Applicants' Representative at the number provided below if the Examiner believes it would further prosecution of this case.

Respectfully submitted,

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